Proposed response template on written submissions prior to INC-3 (part a)

At its second session, the intergovernmental negotiating committee (INC) requested the secretariat to invite written submissions on:

- Elements not discussed at INC-2, such as principles and scope of the instrument

INC-2 further requested the secretariat to post any submissions received on the INC website and to prepare a synthesis report of the submissions.

The template below was prepared by the secretariat, in consultation with the Chair, and is meant as a guide to assist Members and Observers in preparing their written submissions.

A number of documents prepared by the secretariat for INC-1 and INC-2 are of relevance to this submission, including:

- UNEA resolution 5/14 on ‘End plastic pollution: towards an international legally binding instrument’
- UNEP/PP/INC.1/5 on ‘Potential elements, based on provisions in paragraphs 3 and 4 of United Nations Environment Assembly resolution 5/14, including key concepts, procedures and mechanisms of legally binding multilateral agreements that may be relevant to furthering implementation and compliance under the future international legally binding instrument on plastic pollution, including in the marine environment’
- UNEP/PP/INC.1/6 on ‘Glossary of key terms’
- UNEP/PP/INC.1/8 on ‘Description of standard articles on final provisions that are typically included in multilateral environmental agreements’
- UNEP/PP/INC.2/4 on ‘Potential options for elements towards an international legally binding instrument, based on a comprehensive approach that addresses the full life cycle of plastics as called for by United Nations Environment Assembly resolution 5/14’
- UNEP/PP/INC.2/INF/4 on ‘Additional information linked to the options for the potential elements towards an international legally binding instrument’
- UNEP/PP/INC.2/INF/7/REV.1 on ‘Information submitted by the Secretariat of the Basel, Rotterdam and Stockholm conventions’

All written submissions must be sent to unep-inclastic.secretariat@un.org. As detailed in the mandate, the submissions received will be made available on the INC webpage, a synthesis report of the submissions will also be developed in advance of INC-3.

Please note that not all fields in the template need to be answered in the submission.

Deadline for submissions:

I. By 15 August 2023 for written submissions from observer organizations.
II. By 15 September 2023 for written submissions from Members of the Committee.
Elements not discussed at INC-2

1. Scope

What is the proposed scope for the future instrument?

Which types of substances, materials, products and behaviors should be covered by the future instrument?

**Proposed scope:**
The scope should cover the full life cycle of plastics with special attention to the upstream management.

**Explanatory Text:**
- The whole life cycle of plastics covers the extraction of hydrocarbons, production, design, consumption and disposal. It will address all impacts and outcomes of plastic life cycle including in the marine environment. It also recognizes the risk of plastic pollution to human health.
- Since downstream countries are accountable for managing cumulative plastic pollution. Therefore, the scope of the treaty should give special attention to upstream plastic management.

2. Principles

What principles could be set out in the future instrument to guide its implementation?

**Proposed principles:**
The instrument could set the following principles for better implementation:

1. **Precautionary principle:** The precautionary principle is usually considered as preliminary safety measures. This principle would ensure the prevention actions that would minimize the risk of occurring the plastic pollution.
2. **Prevention principle:** This principle is applied while the product is being made, used or disposed.
3. **Access to the information principle** to ensure the transparency and accountability: Since problematic polymer and chemicals of concern are used in the plastic production. Therefore,
access to the information principle is highly important to ensure the transparency and accountability.

4. **Equity and sustainability principle:** This principle will be based on the specific needs and special circumstances of developing and least developed countries. The principle will highlight the notion of "Think globally and act locally" and the social rights with the sense of intergenerational responsibility ensuring mitigation of adverse consequences to the climate, biodiversity and food security caused by plastic pollution. This principle would ensure the use the Best Available Techniques (BAT) and Best Environmental Practices (BEP).

**Explanatory Text:**

3. **Additional considerations**

Provide any other relevant inputs, proposals or priorities here that have not been discussed at INC-2 (e.g. preamble; institutional arrangements, including governing body, subsidiary bodies, scientific and technical cooperation and coordination, and secretariat; final provisions including dispute settlements; and if appropriate annexes).

Discussion

**Proposed inputs:**

1. **Preamble (should consider the following)**
   - Recognition of plastic pollution as a global and transboundary issue that requires a collective and coordinated response while considering the important role plastic plays in society;
   - Recognition of the need to end plastic pollution through time bound country driven action plan aimed at eliminating the release of plastic waste in any form into the environment;
   - Recognition of the special circumstances of countries in need and of national circumstances and capabilities facilitating the promotion of ensuring circular economy for plastics;

2. **Definition**

The treaty should include globally agreed technical definitions and provision of forming a technical committee with the expert members of different groups ensuring balanced and equal participation. The technical committee will define technical terms and finally it will be approved by the INC committee members, the following lists of technical terms for example can be considered,

- Definition of plastics, including microplastics;
- Definition of short-lived plastic products/ single-use plastic products;
- Distinction between recovery and recycling;
- Identification of plastic substitutes and plastic alternatives;
- Identification of problematic and avoidable plastic products;
- Identification of problematic chemicals and additives used in plastics;
- Assessment of full life cycle of plastic;

3. **Governing body and Subsidiary body formation and its role**

- An article in the instrument should be included for establishing a governing body and one or more subsidiary bodies to support the implementation of the instrument and in such case, the general
parameters of their mandates would be defined in the instrument and the authority to oversee their work would rest with the governing body;

- Establishment of a mechanism of scientific, technical and economic panels of experts in a form of a governing body and adequate subsidiary bodies to provide guidance, provide policy-relevant scientific, technical and socioeconomic information, produce reports and assessments of progress, provide recommendation of any revision from time to time;

4. **Non-party provisions**
   - The treaty should subsume non-party provisions which set out how a party to the treaty should interact with 'non-party' states.

5. **Arbitration procedures/Settlement of disputes**

6. There would be legal complication when the convention start to implement especially on compliance on reaching import and export targets and upstream leakage of plastics. Therefore, a comprehensive arbitration procedures should be clearly mentioned.

7. **Effectiveness Evaluation process**
   Effective evaluation process would guide the treaty to adjust its pathway whereas periodic review would assess the progress in terms of the adopted decisions. Therefore, like other MEAs, there should be an effectiveness evaluation process of the legally binding treaty.

Explanatory Text: